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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 John D Karna,  
10 Plaintiff,

11 v.

12 Sean Ross, et al.,  
13 Defendants.  
14

No. CV-23-00401-TUC-JGZ  
**SCREENING ORDER**

15 On January 14, 2024, pro se Plaintiff John Karna filed a Second Amended  
16 Complaint asserting violations of 42 U.S.C. § 1983, the First and Fourteenth  
17 Amendments, and claims for breach of contract and negligence, against Defendants  
18 Tucson Unified School District (TUSD) and Sean Ross, Executive Director of the  
19 Arizona State Board of Education, in his individual capacity. (Doc. 44.) Because the  
20 Court granted Plaintiff's application to proceed in forma pauperis, the Court must screen  
21 the complaint. 28 U.S.C. §1915(e)(2)(B)(ii). Upon screening, the Court concludes  
22 Plaintiff has alleged a breach of contract claim in Count VIII. The remaining counts will  
23 be dismissed, and the case remanded to state court.

24 **I. Screening**

25 Section 1915(e)(2)(B)(ii) provides for dismissal of a Complaint filed in forma  
26 pauperis if the Court determines the action is frivolous or malicious, fails to state a claim  
27 on which relief may be granted, or seeks monetary relief against a defendant who is  
28 immune from such relief. 28 U.S.C. § 1915(e)(2)(B). In order to survive dismissal for

1 failure to state a claim, a plaintiff must allege enough facts to state a claim to relief that is  
2 plausible on its face. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 547 (2007).  
3 While a complaint need not plead “detailed factual allegations,” the factual allegations it  
4 does include “must be enough to raise a right to relief above the speculative level.” *Id.* at  
5 555. Indeed, Fed. R. Civ. P. 8(a)(2) requires a showing that a plaintiff is entitled to relief  
6 “rather than a blanket assertion, of entitlement to relief.” *Id.* at 555, n.3. The complaint  
7 ““must contain something more . . . than . . . a statement of facts that merely creates a  
8 suspicion [of] a legally cognizable right to action.”” *Id.* at 555 (quoting 5 C. Wright & A.  
9 Miller, *Federal Practice and Procedure* § 1216, pp. 235–236 (3d ed. 2004)); *see also*  
10 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (interpreting Rule 8(a) and explaining that  
11 there must be specific, non-conclusory factual allegations sufficient to support a finding  
12 by the court that the claims are more than merely possible, they are plausible).

13 When assessing the sufficiency of the complaint, all well-pleaded factual  
14 allegations are taken as true and construed in the light most favorable to the plaintiff,  
15 *Keates v. Koile*, 883 F.3d 1228, 1234 (9th Cir. 2018), and all reasonable inferences are  
16 drawn in the plaintiff’s favor as well. *Caltex Plastics, Inc. v. Lockheed Martin Corp.*, 824  
17 F.3d 1156, 1159 (9th Cir. 2016). Pro se filings must be construed liberally. *Hebbe v.*  
18 *Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (A “complaint [filed by a pro se litigant] ‘must  
19 be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.*  
20 (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)). Nonetheless, the  
21 court will not accept as true conclusory legal allegations cast in the form of factual  
22 allegations. *Iqbal*, 556 U.S. at 578.

23 Finally, if the court determines that dismissal is appropriate, the plaintiff must be  
24 given at least one chance to amend a complaint when a more carefully drafted complaint  
25 might state a claim. *Cook, Perkiss and Liehe, Inc. v. Northern Cal. Collection Serv.* 911  
26 F.2d 242, 247 (9th Cir. 1990) (“district court should grant leave to amend [the complaint]  
27 even if no request to amend the pleading was made, unless it determines that the pleading  
28 could not possibly be cured by the allegation of other facts.”). When dismissing with

1 leave to amend, the court is to provide reasons for the dismissal so a plaintiff can make an  
 2 intelligent decision whether to file an amended complaint. *See Bonanno v. Thomas*, 309  
 3 F.2d 320, 322 (9th Cir. 1962).

## 4 **II. Factual Allegations**<sup>1</sup>

5 Plaintiff served as a teacher in the Amphi School District. During his employment,  
 6 the Arizona State Board of Education (State Board) received a complaint that Plaintiff  
 7 had made a racist remark to a student.<sup>2</sup> (Doc. 44 at 6-7, 12) On June 15, 2021, Defendant  
 8 Sean Ross, Executive Director of the State Board, sent a notice to Arizona school districts  
 9 that Plaintiff was under investigation. (*Id.* at 5.)

10 At a July 25, 2021, job fair held by TUSD, Plaintiff was offered a written contract  
 11 for a full-time teaching position at Pistor Middle School for the 2021-2022 school year.  
 12 (*Id.* at 5, 10.) The contract was approved by TUSD Human Resources, but rescinded by  
 13 TUSD the same day. (*Id.* at 5, 10.) Plaintiff alleges the “contract was violated” when the  
 14 State Board sent notice that Plaintiff was under investigation. (*Id.* at 11.)<sup>3</sup> Kevin Navarro,  
 15 an investigator for State Board, told Plaintiff the cancellation of the contract was  
 16 “unfortunate.” (*Id.* at 5.)

17 Plaintiff applied for other teaching jobs in the Tucson area, but Ross’s notice that  
 18 Plaintiff was under investigation caused several other schools to reject Plaintiff’s  
 19 applications out of hand. (*Id.* at 5.) Plaintiff alleges that the notice also caused him to  
 20 have a stroke. (*Id.* at 11-12.)

21 On November 15, 2023, Defendant Ross called and held a hearing of the

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22 <sup>1</sup> The factual allegations in the second amended complaint are not organized  
 23 chronologically and are sometimes difficult to follow. The Court has compiled the facts,  
 24 as it understands them, from all parts of the complaint.

25 <sup>2</sup> According to Plaintiff, he told a student, “I’m going to make a prediction on your life,  
 26 you’re going to end up in jail before you are sixteen years old,” to encourage the student  
 to do his schoolwork. (Doc. 44 at 12.)

27 <sup>3</sup> Arizona law requires school districts to conduct a search of prospective employees on  
 28 the educator information system that is maintained by the Department of Education  
 before employing a certificated or noncertificated person. A.R.S. § 15-505(C) (amended  
 2024).

Professional Practice Advisory Committee (PPAC) to consider whether to cancel, suspend, or censure Plaintiff's substitute teaching certificate. (*Id.* at 6.) Plaintiff demanded that the PPAC recommend to the State Board that the complaint against him be dismissed with prejudice; the notices sent to the schools be rescinded; and new notices be sent to the schools. (*Id.*) Instead, the PPAC recommended that the State Board censure Plaintiff's certificate of substitute teaching with the condition of successful completion of the NSAD TEC prevention and corrections course. (*Id.* at 6-7.) The PPAC recommendation was signed by John Schell, PPAC Chairperson. (*Id.* at 7.) The PPAC determined censure was the appropriate remedy based on finding, as an aggravating factor, that Plaintiff refused to acknowledge the wrongful nature of his conduct. (*Id.* at 6.)

The State Board met on January 22, 2024. (*Id.* at 6.) Plaintiff attended the hearing. (*Id.* at 7.) Plaintiff informed the Board that the PPAC recommendation was erroneous because he had admitted his statement to the student was wrong and that he should have had a private counseling session with the student. (*Id.* at 6-7.) Prior to the hearing, Plaintiff also wrote a letter to Board members and the Superintendent of Education, explaining why he believed PPAC's recommendation was arbitrary and capricious. (*Id.* at 7-8.) Plaintiff requested that the Board reject the PPAC's recommendation, rescind notices to school districts that Plaintiff is under investigation, and close the case with prejudice. (*Id.* at 8.)<sup>4</sup>

### III. Discussion

#### A. Federal Claims: Section 1983

To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants (2) under color of state law (3) deprived him of federal rights, privileges or immunities and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th Cir. 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm'n*, 42 F.3d 1278, 1284 (9th Cir. 1994)). A plaintiff "must allege facts, not simply conclusions, that

<sup>4</sup> From the State Board's webpage, it appears that, at the hearing, the Board accepted PPAC's recommendation for censure. See <https://azdbe.az.gov/education-discipline/discipline-search> (last visited April 25, 2024).

show that an individual was personally involved in the deprivation of his civil rights.” *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998). In addition, a plaintiff must allege that he suffered a specific injury as a result of the conduct of a particular defendant and he must allege an affirmative link between the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

#### 1. Due Process claims – Counts I through IV

In Counts I through IV, Plaintiff asserts procedural due process claims. (*Id.* at 5-8.) The Due Process Clause of the Fourteenth Amendment “provides that certain substantive rights—life, liberty, and property—cannot be deprived except pursuant to constitutionally adequate procedures.” *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985). “In order to state a claim under the fourteenth amendment, the complainant must allege facts showing not only that the State has deprived him of a ... property interest but also that the State has done so without due process of law.” *Brewster v. Bd. of Educ. of Lynwood Unified Sch. Dist.*, 149 F.3d 971, 983 (9th Cir. 1998). The Due Process analysis requires two steps: first, a court must determine whether the plaintiff had a protected property interest in his continued employment; second, a court must determine whether, in being deprived of that property interest, the plaintiff received all the process that was due. *Clements v. Airport Auth. of Washoe Cnty.*, 69 F.3d 321, 331 (9th Cir. 1995); *see also Hufford v. McEnaney*, 249 F.3d 1142, 1150 (9th Cir. 2001) (“A procedural due process claim consists of two elements: (1) deprivation of a constitutionally protected liberty or property interest, and (2) denial of adequate procedural protections.”).

In Count I, Plaintiff alleges Defendants Ross and TUSD deprived him of his emergency certification license, “a property right for public school teaching.” (Doc. 44 at 5.) Plaintiff’s allegations are insufficient to state a procedural due process claim. First, TUSD holds a property interest in an emergency certification license, not Plaintiff.<sup>5</sup>

<sup>5</sup> Plaintiff alleges TUSD had obtained an emergency certification to hire a teacher who could teach science at Pistor Middle School. (Doc. 44 at 5.) Emergency certificates may be issued at the request of a district or charter school superintendent when an emergency employment situation exists. *See* <https://www.azed.gov/educator-certification/forms-and->

1 Plaintiff had, and apparently still has, a substitute teaching certification. Neither TUSD  
 2 nor Ross deprived Plaintiff of his certification. Second, although Plaintiff alleges  
 3 Defendant Ross was involved in investigating, calling for an evidentiary hearing, and  
 4 making recommendations regarding his teaching certificate, Ross lacked the authority to  
 5 determine what conditions, if any, should be placed on Plaintiff's teaching certificate –  
 6 that power was designated to the State Board, which did make such a determination.  
 7 Plaintiff does not allege that Ross engaged in deception or made false statements; rather,  
 8 it appears from the allegations in the complaint that Plaintiff merely disagrees with  
 9 Ross's involvement in the investigation and recommendation to the Board. Finally,  
 10 Plaintiff fails to allege facts showing that he was entitled to any greater procedural  
 11 protections than those he was afforded. Plaintiff received notice of the complaint against  
 12 him and an opportunity to be heard as the allegations.

13 Plaintiff fails to state a claim against Ross in Count II. Plaintiff alleges Ross  
 14 "called and organized the PPAC hearing on November 15, 2023, to cancel, suspend, or  
 15 censure Plaintiff Karna's certificate of substitute teaching, a property right." (Doc. 44 at  
 16 6.)<sup>6</sup> These actions are consistent with Ross's position and responsibilities in investigating  
 17 claims of misconduct and presenting the claims to the State Board. Plaintiff's  
 18 disagreement with Ross's conclusions and recommendations does not establish a  
 19 violation of due process. Plaintiff also alleges "Ross did not timely call an evidentiary  
 20 hearing as to the rescission of the Pistor Middle School contract and the rejections of job  
 21 applications to Arizona Public and Private schools." (Doc. 44 at 6.) Nothing in the  
 22 complaint plausibly suggests that Ross had a due process obligation to set an evidentiary  
 23 hearing regarding TUSD's rescission of the contract or other schools' rejection of  
 24 Plaintiff's applications for employment. Ross called and organized a PPAC hearing  
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26 information/emergency-certificates#:~:text=The%20Emergency%20Substitute%20Certifi  
 27 cate%20entitles,same%20school%20per%20school%20year (last accessed April 25,  
 28 2024).

<sup>6</sup> Plaintiff's additional allegation that Ross "prevented the testimony" of Navarro at the Board of Education hearing on hearsay grounds does not allege a due process violation.

1 related to the censure of Karna's teaching certificate. (*Id.*) Plaintiff fails to show that he  
 2 was entitled to any additional evidentiary hearing than the one provided. "The judicial  
 3 model of an evidentiary hearing is neither a required, nor even the most effective, method  
 4 of decision[-]making in all circumstances." *Mathews v. Eldridge*, 424 U.S. 319 (1976).

5 Plaintiff's allegations in Count III, that Ross ignored Plaintiff's recommendation  
 6 that the State Board reject the PPAC's recommendation, fail to state a claim. Plaintiff's  
 7 allegations do not show that he suffered a deprivation of a constitutionally protected  
 8 liberty or property interest or the denial of adequate procedural protections. Plaintiff does  
 9 not have a due process interest in Ross's recommendation and Plaintiff was given notice  
 10 of the allegation against him and an opportunity to be heard.

11 For the same reason, Plaintiff fails to state a due process claim in Count IV, which  
 12 alleges Ross violated Plaintiff's due process rights by "recommend[ing] to the State  
 13 Board of Education to censure Plaintiff Karna's certificate of substitute teaching, a  
 14 property right," and that Ross refused Plaintiff's demand that the PPAC recommend that  
 15 the "Complaint [be] dismissed with prejudice." (Doc 44 at 7.) Defendant Ross is not a  
 16 final decision maker in the State Board investigatory process. Therefore, Plaintiff fails to  
 17 show an affirmative link between Ross's actions and his purported injury.

## 18 2. First Amendment claim – Count XII

19 In Count XII, Plaintiff alleges that Defendant Ross violated his First Amendment  
 20 right to free speech by recommending to the State Board "regulating" Plaintiff's  
 21 comment to the complaining student.<sup>7</sup> (*Id.* at 12.) "In order to state a claim against a  
 22 government employer for violation of the First Amendment, an employee must show (1)  
 23 that he or she engaged in protected speech; (2) that the employer took 'adverse  
 24 employment action'; and (3) that his or her speech was a "substantial or motivating"  
 25 factor for the adverse employment action." *Coszalter v. City of Salem*, 320 F.3d 968, 973  
 26 (9th Cir. 2003). Plaintiff fails to allege facts sufficient to establish the first or second  
 27 elements.

28 <sup>7</sup> Presumably, Plaintiff is alleging that he was investigated and/or disciplined in violation  
 of the First Amendment for his comment to the student.



1 To meet the first element, an employee must show that “the employee spoke as a  
 2 citizen on a matter of public concern.” *Garcetti v. Ceballos*, 547 U.S. 410, 410 (2006).  
 3 An employee speaks as a private citizen if his speech was not made pursuant to his  
 4 ordinary job duties. *Lane v. Franks*, 573 U.S. 228, 240 (2014). Here, Plaintiff spoke to  
 5 the student, regarding his failure to complete homework, in his capacity as an employee  
 6 of the school. Plaintiff’s conclusory allegation that he was not acting pursuant to his  
 7 official duty as a science teacher does not negate the factual allegations which, on their  
 8 face, show that Plaintiff was fulfilling his duties as a teacher. *See Connick v. Myers*, 461  
 9 U.S. 138, 147 (1983) (“when a public employee speaks not as a citizen upon matters of  
 10 public concern...a federal court is not the appropriate forum in which to review the  
 11 wisdom of a personnel decision taken...in reaction to the employee's behavior.”). In  
 12 addition, Plaintiff’s allegations do not show that Ross had the authority to take an adverse  
 13 employment action against him. Ross’s recommendations were recommendations.  
 14 Therefore, Plaintiff fails to state a First Amendment claim.

## 15 B. State Law Claims

### 16 1. Negligence - Counts V, VI & VII

17 In Counts V, VI, and VII, Plaintiff alleges that Defendant Ross’s negligent  
 18 conduct caused Plaintiff injury. To establish a claim for negligence in Arizona, Plaintiff  
 19 must prove four elements: (1) duty to conform to a certain standard of care; (2) a breach  
 20 of that duty of care; (3) a causal connection between the breach of duty; and (4) actual  
 21 damages. *Gipson v. Kasey*, 214 Ariz. 141, 143 (2007). In Arizona, the first factor, the  
 22 duty to conform to a certain standard of care, is decided by the court. *Markowitz v.*  
 23 *Arizona Parks Bd.*, 146 Ariz. 352, 356 (1985). “Duty is defined as an obligation,  
 24 recognized by law, which requires the defendant to conform to a particular standard of  
 25 conduct in order to protect others against unreasonable risks of harm.” *Gipson*, 150 P.3d  
 26 at 230 (internal quotation marks omitted). Counts V, VI, and VII will be dismissed for  
 27 failure to state a claim.  
 28



1 In Count V, Plaintiff alleges that Defendant Ross owed a duty of care to  
 2 investigate the complaint and that he failed to exercise reasonable care. (Doc. 44 at 9.) It  
 3 is not clear whether Plaintiff is alleging Ross did not investigate the complaint or that  
 4 Plaintiff disagrees with the manner of Ross's investigation. Under either scenario,  
 5 Plaintiff fails to state a claim for negligence. Assuming Ross individually owed Plaintiff  
 6 such a duty, it is clear from the other factual allegations that Plaintiff was, in fact, under  
 7 investigation by at least June 2021. (*Id.* at 5.) A disagreement with the manner of the  
 8 investigation does not breach a duty of care owed to Plaintiff.

9 In Count VI, Plaintiff alleges that Defendant Ross owed Plaintiff a duty *not* to call  
 10 and organize the PPAC hearing regarding the censure of his teaching license. (Doc. 44 at  
 11 9.) Under Arizona law, the State Board of Education is required to investigate allegations  
 12 of unprofessional conduct, A.C.D. R7-2-1302(G), and to hold a hearing before the PPAC.  
 13 A.C.D. R7-2-1303(C). Plaintiff's contention that Defendant Ross had a duty to *not* call a  
 14 PPAC hearing is contrary to law.

15 In Count VII, Plaintiff alleges that Defendant Ross breached a duty of care by *not*  
 16 recommending to the Board that Plaintiff's certificate of student teaching continue  
 17 without conditions. (Doc. 44 at 10.) Under Arizona law, after hearing evidence, the  
 18 PPAC must prepare a recommended decision and findings of fact and conclusions of law  
 19 for the Board. Ariz. Admin. Code R7-2-717(A). Neither Ross, nor the PPAC, were  
 20 obligated to Plaintiff to make a particular recommendation to the Board. That Plaintiff  
 21 does not agree with the PPAC's recommendation does not provide a basis for a  
 22 negligence claim.

## 23 2. Breach of Contract

24 In Count VIII, Plaintiff alleges that TUSD breached a contract for employment  
 25 that was signed on or about July 25, 2021. (*Id.*) In Arizona, a claim for breach of contract  
 26 requires proof: (1) that a contract existed; (2) a breach of that contract by the defendant;  
 27 and (3) that the plaintiff was damaged by the breach of contract. *Frank Lloyd Wright*  
 28 *Found. v. Kroeter*, 697 F. Supp. 2d 1118, 1125 (D. Ariz. 2010). Plaintiff has stated a

1 claim for breach of contract against TUSD.

2 3. Defamation

3 In Count IX, Plaintiff alleges that Defendant Ross committed defamation by  
4 publishing to various Arizona school districts that Plaintiff was under investigation. (Doc.  
5 44 at 11.) But Plaintiff also alleges that he was, in fact, under investigation. In defamation  
6 actions, both in federal court and in the state of Arizona, the plaintiff must prove the  
7 falsity of the statement in order to succeed on a claim. *See Yetman v. English*, 168 Ariz.  
8 71, 81 (1991); *see also Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 776  
9 (1986). Therefore, Plaintiff fails state a claim for defamation.

10 4. Intentional Interference with a Business Relationship

11 The elements of a claim of intentional interference with a business relationship  
12 are: “(1) existence of a valid contractual relationship..., (2) knowledge of the relationship  
13 on the part of the interferor, (3) intentional interference inducing or causing a breach, (4)  
14 resultant damage to the party whose relationship has been disrupted, and (5) that the  
15 defendant acted improperly. *NCWC Inc. v. CarGuard Admin. Inc.*, 635 F. Supp 3d 815,  
16 821-22 (D. Ariz. 2022) (citing *Wells Fargo Bank v. Ariz. Laborers, Teamsters & Cement*  
17 *Masons Loc. No. 395 Pension Tr. Fund*, 201 Ariz. 474 (2002)). In Count X, Plaintiff  
18 alleges that Defendant Ross tortiously interfered with a business relationship, when the  
19 State Board sent notice to TUSD that Plaintiff was under investigation. (Doc. 44 at 11.)  
20 Plaintiff’s allegations fail to state a claim. The notice of investigation was sent on June  
21 15, 2021. (Doc. 44 at 5.) However, Plaintiff did not enter the contract he contends was  
22 interfered with until July 25, 2021. (*Id.* at 11.) Moreover, there was nothing improper in  
23 informing school districts that Plaintiff was under investigation, as he was under  
24 investigation.

25 5. Intentional Infliction of Emotional Distress

26 In Count XI, Plaintiff alleges that Defendant Ross committed the “tort of outrage”  
27 “by intentionally or recklessly sending extreme and outrageous notice . . . to Arizona  
28 School Districts that [Plaintiff] was under investigation.” (*Id.*) The Court will construe

1 Plaintiff's claim as one for Intentional Infliction of Emotional Distress (IIED). To  
 2 establish IIED, a plaintiff must show: (1) extreme and outrageous conduct by the  
 3 defendant; (2) intent to cause emotional distress or reckless disregard of the near certainty  
 4 that such distress will result from the defendant's conduct; and (3) severe emotional  
 5 distress on the plaintiff's part that occurs as a result. *A.G. v. Paradise Valley Unified Sch.*  
 6 *Dist. No. 69*, 815 F.3d 1195, 1208 (9th Cir. 2016). "A plaintiff must show that the  
 7 defendant's acts were 'so outrageous in character and so extreme in degree, as to go  
 8 beyond all possible bounds of decency, and to be regarded as atrocious and utterly  
 9 intolerable in a civilized community.'" *Mintz v. Bell Atl. Sys. Leasing Int'l, Inc.*, 183 Ariz.  
 10 550, 905 P.2d 559, 563 (Ariz. Ct. App. 1995) (citing *Cluff v. Farmers Ins. Exch.*, 460  
 11 P.2d 666, 668 (Ariz. Ct. App. 1969). Here, the notices sent by Defendant Ross to the  
 12 Arizona school districts are not so extreme and outrageous as to go beyond all possible  
 13 bounds of decency. As such, Plaintiff fails to state a claim for IIED.

### 14 **III. Leave to Amend and Remand**

15 Plaintiff has stated a claim for breach of contract in Count VIII against TUSD. The  
 16 remaining counts and Defendant Ross will be dismissed without prejudice. Having  
 17 dismissed the Plaintiff's federal constitutional claims, the Court must determine whether  
 18 to allow amendment. Taking Plaintiff's factual allegations as true, the Court concludes  
 19 that it would be futile to amend as to Plaintiff's constitutional claims. Plaintiff's  
 20 allegations establish that he was provided procedural due process with respect to  
 21 investigation and resolution of his comment to a student. The comment was made by  
 22 Plaintiff in his role as a public employee and, therefore, his subsequent censure for the  
 23 comment does not state a First Amendment violation. Dismissal of the federal claims  
 24 deprives this Court of subject matter jurisdiction. Consequently, the Court will remand

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1 this action back to the state court. Therefore,

2 **IT IS ORDERED** Counts I, II, III, IV, V, VI, VII, IX, X, XI, and XII of the  
3 Second Amended Complaint (Doc. 44) are **DISMISSED**.

4 **IT IS FURTHER ORDERED** that the Clerk of Court shall remand this case to  
5 Pima County Consolidated Justice Court and close its file in this action.

6 Dated this 25th day of April, 2024.

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10 Jennifer G. Zippo  
11 United States District Judge  
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